

ZB# 95-51

Dan McCarville

73-7-24

#95-51- McCarville, Dan

93-7-24. Area

Prelim.:-

Oct. 23, 1995.

Applicant has
Aps.

① Photos have

② Seed

③ Title Report

④ Fees. ① 300.00
Notice to Submit 10/31/95
Letters out 10/31/95.

Public Hearing:

November 13, 1995.

Granted Area

Variances.

Refund due: \$203.00

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15090

Oct. 31

19 95

Received of Mary Lou McCarville

\$ 50.00

Fifty 00/100

DOLLARS

For ZBA # 95-51

DISTRIBUTION:

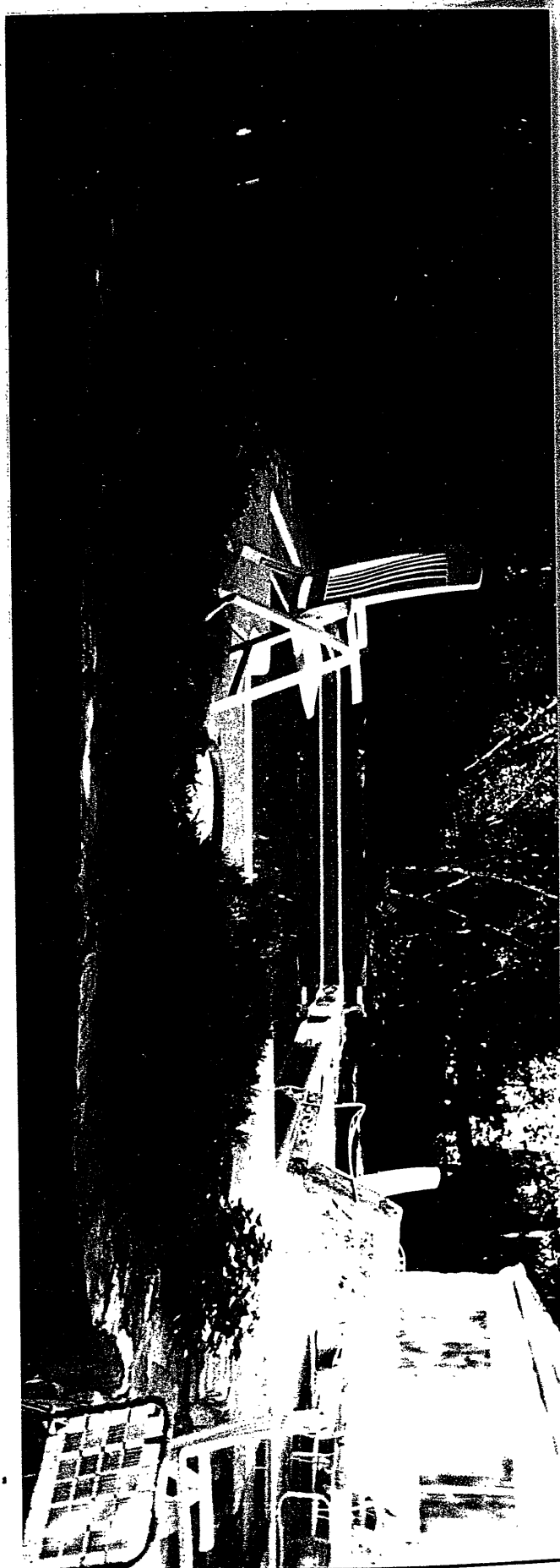
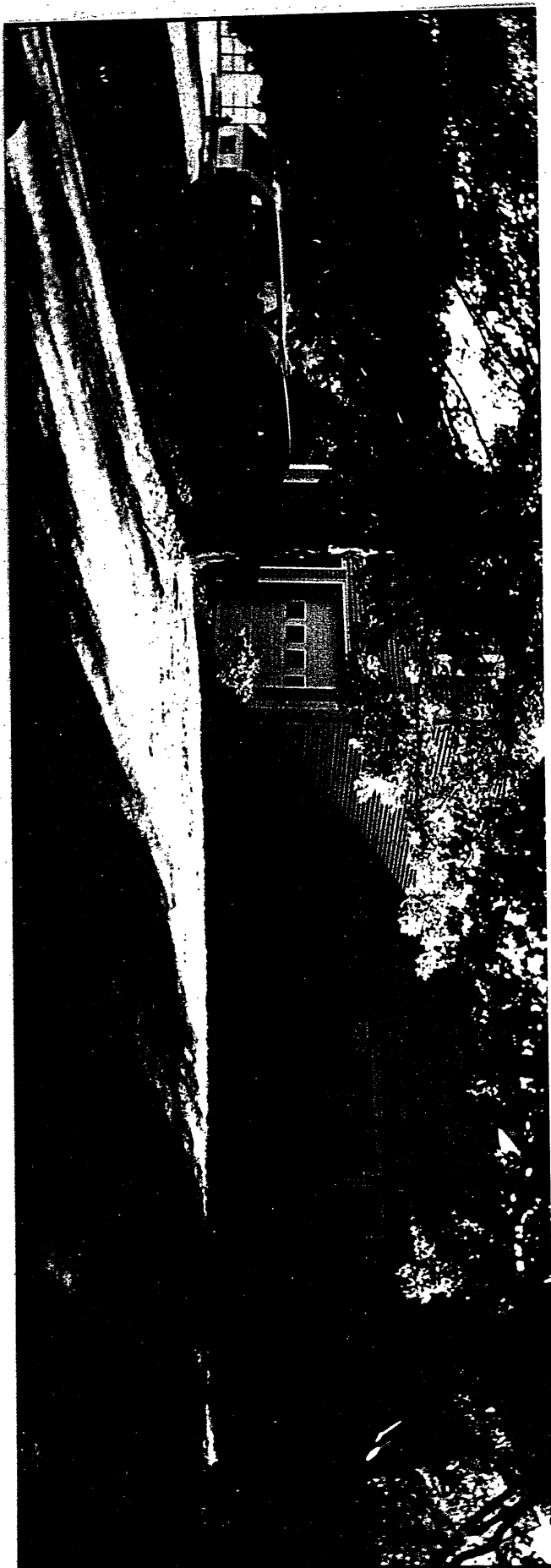
FUND	CODE	AMOUNT
Chk # 4121		50.00

By Dorothy N. Hansen

Town Clerk

Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564



Date 11/27....., 1993

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Mary Lou McCarville DR.

4421 Phila Street
New Windsor, N.Y. 12553

DATE	CLAIMED	ALLOWED
11/29/95	Refund for Overpayment of Escrow # 95-51 203 00	
<p>Approved: Patricia A. Burkhardt ZBA</p>		

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: McCawell, Dan & Marylou

FILE # 95-51

RESIDENTIAL: \$ 50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☒

USE ☐

APPLICATION FOR VARIANCE FEE \$ 50.00 paid

* * * * *

4121 -
10/31/95

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00 Paid

CK 4120
10/31/95

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE	10/23/95 - 3 pages	\$ 13.50
2ND PRELIM. MEETING - PER PAGE	11/13/95 - 3 pages	\$ 13.50
3RD PRELIM. MEETING - PER PAGE		\$
PUBLIC HEARING - PER PAGE		\$
PUBLIC HEARING (CONT'D) PER PAGE		\$
TOTAL		\$ <u>27.00</u>

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING:	10/23/95	\$ 35.00
2ND PRELIM.	11/13/95	\$ 35.00
3RD PRELIM.		\$
PUBLIC HEARING		\$
PUBLIC HEARING		\$
TOTAL		\$ <u>70.00</u>

MISC. CHARGES:

_____	\$ -
TOTAL	\$ <u>97.00</u>

LESS ESCROW DEPOSIT	\$ <u>300.00</u>
(ADDL. CHARGES DUE)	\$
REFUND DUE TO APPLICANT	\$ <u>203.00</u>

Refund

(ZBA DISK#7-012192.FEE)

-----x
In the Matter of the Application of

DANIEL C. MC CARVILLE

DECISION GRANTING
AREA VARIANCES

#95-51.
-----x

WHEREAS, DANIEL C. MC CARVILLE, 442 Philo Street, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for 8 ft. side yard and 8 ft. rear yard variance for existing shed in variation of Section 48-14A(1)(b) and a 6 ft. high fence in variation of Section 48-14C(1)(c)[1] of the Supplemental Yard Regulations located at 442 Philo Street in an R-4 zone; and

WHEREAS, a public hearing was held on the 13th day of November, 1996, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant appeared himself; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke and there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The property is a one-family home located in a neighborhood of one-family homes.

(b) There are similar sheds and fences on many other properties in the neighborhood.

(c) The fence enhances the appearance of the property and its removal would make the property less attractive.

(d) The shed is located in such a place on the property as to be least visible to neighbors because of screening and foliage. If the shed were located in an allowed section on the property it would have a greater impact on the neighborhood.

(e) The shed is located against the back of the shed on a neighboring property, the only property from which this shed is visible.

(f) The topography and rock croppings in the soil make it impracticable if not impossible to locate the shed in any other location.

(g) The fence is necessary for the safety of users of the adjacent pool area and keep it safe from the street and adjoining properties.

(h) If the fence were to be lowered to conform with the zoning, the foliage presently on the fence would have to be removed.

(i) The property immediately next to this property has an identical fence to the one for which this variance is sought promoting continuity in the neighborhood. The shed is not on skids and cannot be readily moved.

(j) Moving the shed would occasion the removal of a large amount of foliage and trees thereby causing a detriment to the neighborhood.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than through the variance procedure.

3. The variances requested are not substantial.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but should be granted because granting such variance will enhance the value of the property and therefore also the value of other properties in the neighborhood.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. It is the further finding of this Board that the requested area variances are appropriate and is the minimim

variance necessary and adequate to allow the applicant relief from the requirements of the Zoning Code and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

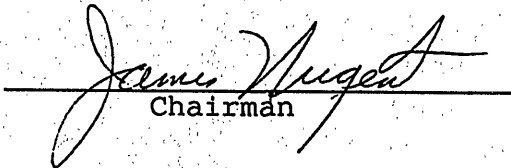
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT an 8 ft. side yard and 8 ft. rear yard variance for an existing shed and a variation of Section 48-14A(1)(b), and an existing 6 ft. high fence in variation of Section 48-14C(1)(c)[1] both contrary to the Supplemental Yard Regulations, at the above address, in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: January 22, 1996.


Chairman

(ZBA DISK#13-011596.MCC)

Date 11/22/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Bell 147 Syracuse Dr DR.
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
11/13/95		Zoning Board Mtg	75 00	
		Misc - 2		
		Langauke - 4		
		Rhodes - 3		
		Kimber - 8		
		Upstate - 4		
		Schlesinger - 5		
		Johnson - 3		
		McCarville - 3 13.50		
		<u>32</u>	<u>144 00</u>	
			219 00	

PUBLIC HEARING:

MC CARVILLE, DANIEL C.

MR. NUGENT: Request for variation of Section 48-14A(1)(b) for existing shed and Section 48-14C(1)(c)[1] both supplemental yard regulations for existing 6 ft. high fence located at 442 Philo Street in R-4 zone. Also note that no one is in the audience, only the applicant.

MR. KRIEGER: Since the time that this came before the board, as a preliminary matter, I have acquired as a client individuals who are the contract vendees of this premises. I don't represent Mr. McCarville or have anything to do with this application directly but I did want to make the board aware of my situation so that if he has any doubt about or reservations about anything that I say they can seek advises at will.

MR. LANGANKE: Thank you for the information.

MR. NUGENT: Have no problem with it.

MS. BARNHART: I have an affidavit of service by mail that is made out by myself stating that on October 31, I sent out 79 envelopes containing all of the notices of public hearing for this matter.

MR. MC CARVILLE: Just so the record shows we received four back, I figured you'd want them back for the record. The reasoning I'm here tonight, since the preliminary, I lost one of my photos, hopefully you have one for the record, I'm looking for a side yard rear yard on the shed of I believe it's eight foot and also relief from 48-14 (C) [1] for a fence that is closer to the road than the principal residence. And the property is located on Philo and Simm. I point out that the sale of the property is not hinged upon this agreement. It very specifically excludes the shed unless the shed variance is granted and if the variance is not granted, I just get out my chain saw and cut the fence off and it becomes an eyesore instead of a beautiful fence.

MR. LANGANKE: Is this the fence that has the foliage over it?

MR. MC CARVILLE: Yes, you can see it from the street, it's not like it's set far.

MR. LANGANKE: As I recall, these were the best photographs ever submitted to the board, excellent photographs.

MR. MC CARVILLE: The shed that is in the back yard is only visible from one other lot and his shed is up against mine on the other side but very common when you get into the type situation that is the most convenient place to put those sheds in there and all along that side of the property, rock croppings that would prevent from relocating the shed out there. So the shed and the fence--

MR. KRIEGER: With the foliage, it's in the least visible spot.

MR. TORLEY: Do you consider the fence to be part of the safety for the pool?

MR. MC CARVILLE: It is absolutely part of the safety requirements, it shields the pool area from the street and adjoining properties and keeps it safe.

MR. KRIEGER: If you we're to lower the fence, you'd have to take the foliage off and thereby causing a detriment to the neighborhood?

MR. MC CARVILLE: Exactly, my neighbor has the identical fence that matches mine along with the foliage as well so it matches the neighborhood and all.

MR. NUGENT: Evidently, there's no one that cares about what you're doing cause there's no one here.

MR. MC CARVILLE: I had one call from one person they wanted to know if they had to be there, I said no, you don't have to be here. I talked to my adjoining neighbors, they have no problem with it.

MR. BABCOCK: They are going to be in for their shed some day.

MR. KRIEGER: The shed has footings or anchors of some sort that go into the ground?

MR. MC CARVILLE: It's not a fixed foundation, it's--

MR. KRIEGER: But the foundation has go into the ground at this point, it doesn't have footings but it's not on skids?

MR. MC CARVILLE: No.

MR. TORLEY: Outcroppings of rock and shale make it difficult to relocate it?

MR. MC CARVILLE: Well, I'd lose a lot of trees if I had to attempt to relocate it. I'd have to cut down trees and remove rocks.

MR. LANGANKE: I think you have made a very strong case, I don't have any questions.

MR. REIS: Make a motion since he's caused such a disturbance in the neighborhood that we accept his request and give him his requested variance.

MR. TORLEY: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 51

Request of DANIEL C. MC CARVILLE

for a VARIANCE of the Zoning Local Law to permit:

existing shed and 6 ft. high fence

being a VARIANCE of Section 48-14A(1)(b) and 48-14C(1)(c) [1]

for property situated as follows:

442 Philo Street, New Windsor, N. Y. 12553

known as tax lot Section 73 Block 7 Lot 24.

SAID HEARING will take place on the 13th day of November,
19 95, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

Date 10/25/98, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Bth 147 Syracuse Dr DR.
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
11/23/45	Zoning Board Meeting		75 00	
	Mrs E - 2			
	Cilioni - 11			
	McCarville - 3	13.50.		
	Thomas - 3			
	Mylonas - 3			
	Francan - 9			
	Belle - 22			
	Dubetsky - 8		274 50	
	<u>51</u>		<u>349 50</u>	

MC CARVILLE, DAN

MR. NUGENT: Request for 8 ft. side yard and 8 ft. rear yard variance for existing shed, and a 6 ft. high fence which is not permitted between the principal building and street, Section 48-14C(1)(c)[1] located at 442 Philo Street in R-4 zone.

Mr. Dan McCarville appeared before the board for this proposal.

MR. MC CARVILLE: I was in on this matter probably about a year and a half ago and at that point, I didn't pursue the paperwork. I have since obtained all the information I need. The subject fence and shed we have put in in 1981 when the, when I had the pool put in the yard and the fence faces, it's not actually between the house and the street, it projects closer to the street than the house faces on to Simm (phonetic), which is a street that runs between Nina and Philo and has no residence facing the street, they are side yards or the house is either facing onto Nina or Philo. I have photos which believe it or not that is the fence, it looks like a row of bushes, it's not visible from the road and it sits, I'd say approximately ten foot of the road, 15 foot off the road. I also have a photo of the shed in question which sits in the corner of the property, simply because there's a cropping of Birch trees, a rock cropping to the front of the lot that would not allow for a shed to be positioned there and the final photo that I submit is just a photo of the front of the building that shows that fence coming around on the one side that surrounds the entire back yard.

MR. TORLEY: What was the purpose for the construction of the fence?

MR. MC CARVILLE: At the time I have an inground pool, I had to put a fence surrounding it.

MR. TORLEY: You consider six foot fence is more appropriate for safety reasons than the 4 foot?

MR. MC CARVILLE: Oddly enough, I think the zoning

called for six foot at the time. I believe today it's five foot.

MR. BABCOCK: Yeah, it's five foot.

MR. MC CARVILLE: It was six, called for six foot at that time.

MR. BABCOCK: I don't know what it called for at that time, today it's five foot and the only thing he's allowed by zoning to put there is 4 foot. The law requires him to have a 5 feet fence but in another section of the code says he can only have a 4 foot fence.

MR. MC CARVILLE: Matter of fact, my back door neighbor was up against the same thing and rather than proceeding with the variance, he cut off the top two foot of the fence and it wasn't very nice looking by the time he got done. And since then, the fence has been replaced by new owners that live there. So it really protects you know the pool area and it's not blocking any views or anything of that nature.

MR. KANE: Do the surrounding homes in that area have bushes that are about that high, that same type of view from the street?

MR. MC CARVILLE: Those bushes cover two lots, my neighbor's lot and my lot, we put them in at the same time.

MR. KANE: Other homes in the area are very similar in the area?

MR. MC CARVILLE: Right, then the fence, there was on the other side that was 6 foot, I just replaced, shared the expense with my neighbor on the other side of me. We put in a chain link with the slats through it that is right behind that shed.

MR. NUGENT: Any further questions?

MR. TORLEY: Maybe the town board ought to take a look at the code, remove this contradiction.

October 23, 1995

15

MR. NUGENT: I'll accept a motion.

MR. TORLEY: I move we set up Mr. McCarville for his request for variances.

MR. KANE: Second it.

ROLL CALL

MR. KANE	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. MC CARVILLE: Would you like to keep these?

MR. NUGENT: Yeah.

MR. KRIEGER: If you, when you come back, if you'd address yourself to those criteria, that would be helpful. Those are the criteria the state requires and let me look at a copy of your deed and title policy. I don't need to keep it, I just need to look at it.

MR. MC CARVILLE: I have the deed here.

MR. KRIEGER: When you come for the public and as I say, just let me look at it, we don't need a copy to keep, just need to look at it.

MR. MC CARVILLE: Thank you.

Prelim.
Oct. 23, 1995.
#95-51.

Page 1 of
2

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 10-3-95

APPLICANT: DAN MCCARVILLE

442 PHILLO ST

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: 10-3-95

FOR (BUILDING PERMIT):

LOCATED AT: 442 PHILLO ST

ZONE: R4

DESCRIPTION OF EXISTING SITE: SECTION 73 BLOCK 7 LOT 24

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. EXISTING 8'X10' WOOD SHED

2. ~~EXISTING 6'X8' FENCE~~

3.

48-14 A (1) (B)

4.

5.


BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE: *R4* USE

MIN. LOT AREA

MIN. LOT WIDTH

REQ'D FRONT YD

REQ'D SIDE YD

10 FT

2 FT

8 FT

REQ'D TOTAL SIDE YD

REQ'D REAR YD.

10 FT

2 FT

8 FT

REQ'D FRONTAGE

MAX. BLDG. HT.

FLOOR AREA RATIO

MIN. LIVABLE AREA

DEV. COVERAGE

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY.

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 10-3-95

APPLICANT: DAN MCCARVILLE

442 PHILC ST NEW WINDSOR

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: 10-3-95

FOR (BUILDING PERMIT):

LOCATED AT: 442 PHILC ST

ZONE: R4

DESCRIPTION OF EXISTING SITE: SECTION: 73 BLOCK: 7 LOT: 24

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 6' HIGH FENCE
2. 48-14 C(1) [C(1)]
- 3.
4. A FENCE 6 FT HIGH NOT PERMITTED BETWEEN THE
5. PRINCIPAL BUILDING AND THE STREET.


BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE: **R4** USE:

MIN. LOT AREA

MIN. LOT WIDTH

REQ'D FRONT YD

REQ'D SIDE YD

REQ'D TOTAL SIDE YD

REQ'D REAR YD

REQ'D FRONTAGE

MAX. BLDG. HT.

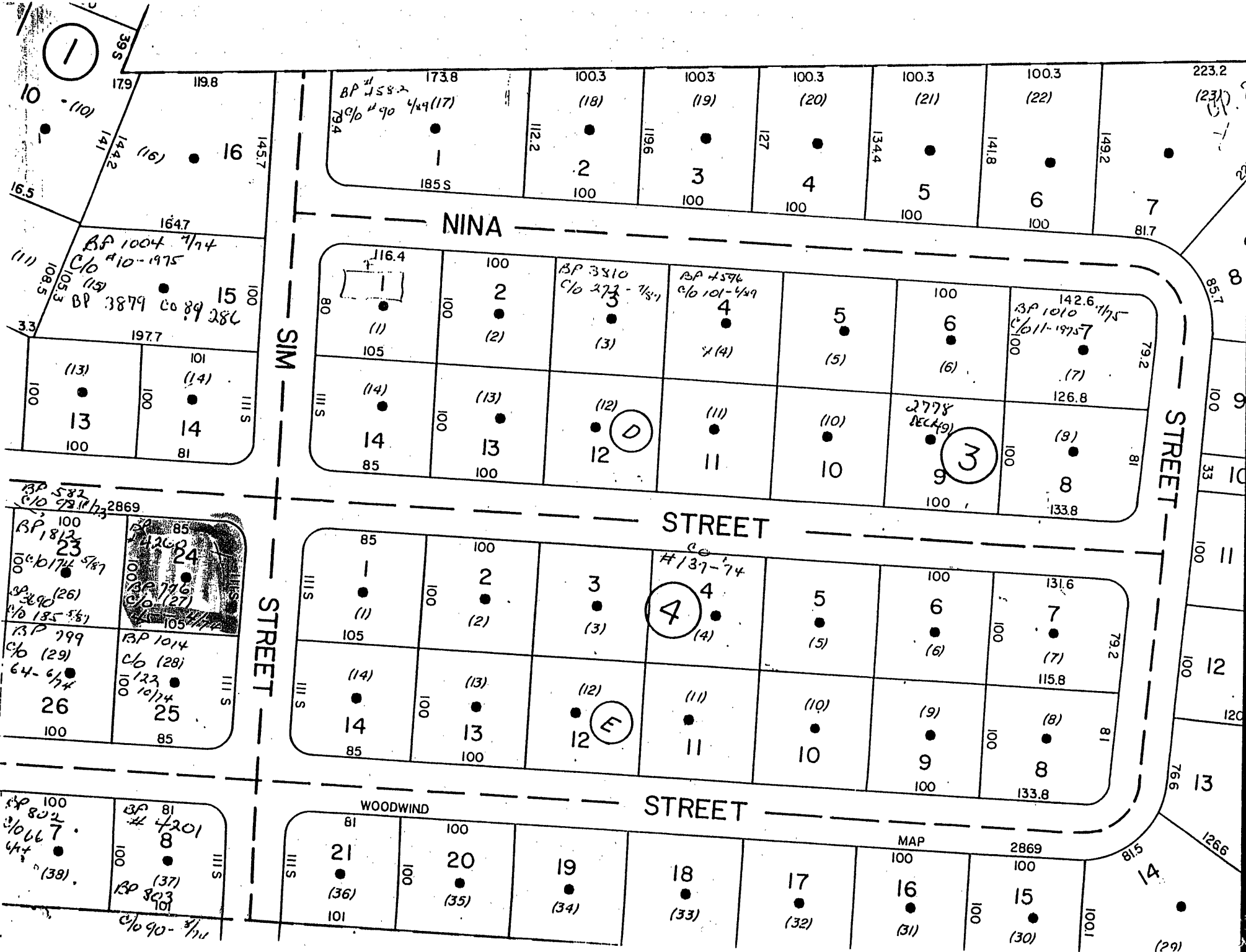
FLOOR AREA RATIO

MIN. LIVABLE AREA

DEV. COVERAGE

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD.

CC: Z.B.A. APPLICANT. B.P. FILES.



Neel Zone Variance

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

PLEASE PRINT INFORMATION

Name of Owner of Premises..... DAN McCORVILLE
Address..... 442 PHILO ST..... Phone.....
Name of Architect.....
Address..... Phone.....
Name of Contractor.....
Address..... Phone.....

State whether applicant is owner, lessee, agent, architect, engineer or builder.....

If applicant is a corporation, signature of duly authorized officer.

(Name and title of corporate officer)

1. On what street is property located? On the.....side of.....
(N.S.E.or W.)
- and.....feet from the intersection of.....
2. Zone or use district in which premises are situated.....^{R. 4} Is property a flood zone? Yes.....No.....
3. Tax Map description of property: Section.....⁷³ Block.....⁷ Lot.....²⁴
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy..... b. Intended use and occupancy.....
5. Nature of work (check which applicable): New Building..... Addition..... Alteration..... Repair.....
Removal..... Demolition..... Other.....^{EXISTING 8x10 wood shed}
6. Size of lot: Front Rear..... Depth..... Front Yard..... Rear Yard..... Side Yard.....
Is this a corner lot?.....
7. Dimensions of entire new construction: Front..... Rear..... Depth..... Height..... Number of stories.....
8. If dwelling, number of dwelling units..... Number of dwelling units on each floor.....
Number of bedrooms..... Baths..... Toilets.....
Heating Plant: Gas..... Oil..... Electric/Hot Air..... Hot Water.....
If Garage, number of cars.....
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use
10. Estimated cost..... Fee.....⁸⁵⁰ =
(to be paid on this application)
11. School District

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

Fence 48-141 (C)-117

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

Daniel C. McCarville

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#95-51.
-----x

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On October 31, 1995, I compared the 79 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
31st day of October, 1995.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(79)

October 6, 1995

Dan & Mary Lou McCarville
442 Philo St.
New Windsor, NY 12553

Re: Tax Map Parcel #73-7-24

Dear Mr. & Mrs. McCarville:

According to our records, the attached list of property owners are within five hundred (500) feet of the above-referenced property.

The charge for this service is \$95.00, minus your deposit of \$25.00.

Please remit the balance of \$70.00 to the Town Clerk's office.

Sincerely,

LESLIE COOK
Sole Assessor

/cmo

Attachments

cc: Rat Bannhart

Kelly, Richard P. & Maureen A.
506 MacNary Road
New Windsor, NY 12553 X

Buer, Lidia
504 MacNary Road
New Windsor, NY 12553 X

Pizzonia, Henry V. &
Fox, Frances
502 MacNary Road
New Windsor, NY 12553 X

Frank, Michael S. & Gay B., Trustees
421 Philo Street
New Windsor, NY 12553 X

Goldsmith, William C.
423 Philo Street
New Windsor, NY 12553 X

McCarthy, Patrick T. & MaryAnn
425 Philo Street
New Windsor, NY 12553 X

Molfetta, John & Beverly
609 Sim Street
New Windsor, NY 12553 X

Wieber, Michael & Maria
611 Sim Street
New Windsor, NY 12553 X

Algner, Keith & Evelyn
364 Nina Street
New Windsor, NY 12553 X

Rostek, Jan & Angelina
362 Nina Street
New Windsor, NY 12553 X

Organ, Thomas F. & Margaret M.
360 Nina Street
New Windsor, NY 12553 X

Wallace, Marilyn
334 Nina Street
New Windsor, NY 12553 X

Cohen, Elliot & Vicki
332 Nina Street
New Windsor, NY 12553 X

Nicolosi, Francis A. & Geraldine
330 Nina Street
New Windsor, NY 12553 X

Tepper, Samuel B. & Esther
328 Nina Street
New Windsor, NY 12553

Mittleman, Allen P. & Stephanie L.
326 Nina Street
New Windsor, NY 12553

Smith, Ray C. & Elizabeth A
357 Nina Street
New Windsor, NY 12553

Stadler Jr., Edward A. &
Noll, Kathy A.
353 Nina Street
New Windsor, NY 12553

Gordon, Robin S.
351 Nina Street
New Windsor, NY 12553

Cabasin, Joseph J. Jr. & Dorothy C.
349 Nina Street
New Windsor, NY 12553

Cestari, Alfred & Maureen
435 Philo Street
New Windsor, NY 12553

Como, Joseph & Elizabeth M.
433 Philo Street
New Windsor, NY 12553

Liebgold, Daniel P. & Margaret A.
225 Y Street
New Windsor, NY 12553

Guarracino, John J. & Mary C.
429 Philo Street
New Windsor, NY 12553

Scott, Thomas & Joanne
22-30 79 Street
Jackson Heights, NY 11370

Hersh, Bob & Rosemary
444 Philo Street
New Windsor, NY 12553

Finneran, Thomas & Kathleen
446 Philo Street
New Windsor, NY 12553

Sherman, Bertram P. & Beverly J.
448 Philo Street
New Windsor, NY 12553

Irizarry, Helga X
450 Philo Street
New Windsor, NY 12553

Roberts, Dennis & Joan E. X
452 Philo Street
New Windsor, NY 12553

D'Agostino, Robert & Xiomara X
335 Nina Street
New Windsor, NY 12553

Enders, Villi P. X
333 Nina Street
New Windsor, NY 12553

Breakiron, Richard C. & X
Bogardus, Anneke-Jans
331 Nina Street
New Windsor, NY 12553

Murphy, William S. Jr., & Brandee L. X
329 Nina Street
New Windsor, NY 12553

Canale, John N. & Catherine A. X
327 Nina Street
New Windsor, NY 12553

Lathrop, John & Pamela X
312 Nina Street
New Windsor, NY 12553

Wiley, John Todd & Marlayna X
314 Nina Street
New Windsor, NY 12553

Schwartz, Hadassa Y X
316 Nina Street
New Windsor, NY 12553

Boro, Harold K. & Susan X
318 Nina Street
New Windsor, NY 12553

Ramos, Robert & Pamela Y
320 Nina Street
New Windsor, NY 12553

Kresevic, John E. & X
Weissman, Marilyn
322 Nina St
New Windsor, NY 12553

Weissman, Steven X
PO Box 4135
New Windsor, NY 12553

Siskind, Martin A. & Judith D.
403 Philo Street
New Windsor, NY 12553 X

Roche, Martin F. & Maureen
503 MacNary Road
New Windsor, NY 12553 X

Thorn, John M. & Carolyn L.
401 Philo Street
New Windsor, NY 12553 X

Servedio, Frank D. & Jeanette J.
419 Philo St.
New Windsor, NY 12553 X

Rones, Joseph & Ellen
417 Philo Street
New Windsor, NY 12553 X

Kearny, Gregory M. & Lynn X
430 Philo Street
New Windsor, NY 12553

Hanley, Barbara X
432 Philo Street
New Windsor, NY 12553

Logerfo, Robert & Jeannette
434 Philo Street
New Windsor, NY 12553 X

Jessen, George III & Terri
436 Philo St.
New Windsor NY 12553 X

Linnet, Richard C. & Rose
438 Philo St
New Windsor, NY 12553 X

Toback, Irwin & Mary X
440 Philo Street
New Windsor, NY 12553

Dixon, Steven E. X
325 Nina Street
New Windsor, NY 12553

Volz, Robert J. & Mary F. X
323 Nina Street
New Windsor, NY 12553

Ostritsky, Mikhail &
Ostritskaya, Alexandra X
321 Nina Street
New Windsor, NY 12553

Graziano, Nancy & Southerton, Donald
319 Nina St.
New Windsor, NY 12553

Velsor, David L.
317 Nina St.
New Windsor, NY 12553

Passantino, Peter & Mamie
315 Nina St.
New Windsor, NY 12553

Steinard, Farah
313 Nina St.
New Windsor, NY 12553

Hertel, Timothy & Joyce
71 Keats Dr.
New Windsor, NY 12553

Avallone, Ronald J. & Maureen L.
73 Keats Dr.
New Windsor, NY 12553

Kasprak, Robert J. & Catherine
75 Keats Dr.
New Windsor, NY 12553

Mounier, Robert & Diane R.
77 Keats Dr.
New Windsor, NY 12553

Faig, Robert A., Jr. & Antoinette
79 Keats Dr.
New Windsor, NY 12553

Patterson, David R., Jr. & Debra Ann
89 Keats Dr.
New Windsor, NY 12553

Ioannidis, Konstantinos & Margarita
87 Keats Dr.
New Windsor, NY 12553

Ramos, David & Migdalia
85 Keats Dr.
New Windsor, NY 12553

Bernstein, Myron & Phyllis F., As Trustees
355 Nina St.
New Windsor, NY 12553

Talbot, Leo C. & Sandra I. X
83 Keats Dr.
New Windsor, NY 12553

Sulla, Michael & Kathleen A. Healy X
380 Frost Lane
New Windsor, NY 12553

Swanson, Maurice & Theresa X
76 Keats Dr.
New Windsor, NY 12553

Bishop, Stacy L. X
78 Keats Dr.
New Windsor, NY 12553

Barden, Denis J. & Carol A. X
80 Keats Dr.
New Windsor, NY 12553

Bell, Joseph F. & Angela T. X
82 Keats Dr.
New Windsor, NY 12553

Brody, Michael & Kathleen M. X
84 Keats Dr.
New Windsor, NY 12553

Lauria, Michael R. & Jane X
86 Keats Dr.
New Windsor, NY 12553

Scheible, Otto
439 Little Britain Rd. T
New Windsor, NY 12553

Lark, Richard & Patrice M. X
532 Union Ave.
New Windsor, NY 12553

HN 6579

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 8th day of April, nineteen hundred and seventy-four
BETWEEN INBRO DEVELOPMENT CORP.,

a New York Corporation with offices and principal place of business at
Union Avenue, New Windsor, N. Y.,

party of the first part, and DAN McCARVILLE and MARY LOU McCARVILLE,
husband and wife, as tenants by the entirety, residing at 16 Hillside
Avenue, Town of Wappingers Falls, New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York,

being shown and designated as Lot #27, Block A as shown on a certain map entitled "Woodwind" (formerly MacNary) Town of New Windsor, Orange County, New York, dated February 1972, revised April 18, 1972 and filed in Orange County Clerk's Office on September 26, 1972 as Map #2869 (2 sheets).

SUBJECT to covenants, restrictions and easements of record, if any.

This conveyance is made in the regular course of business as conducted by the party of the first part.

LIBER 1975 PG 120

~~TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and~~
~~roads abutting the above described premises, to the extent of the same; TOGETHER with the appurtenances~~
and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO
HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of
the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything
whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of
the first part will receive the consideration for this conveyance and will hold the right to receive such consid-
eration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply
the same first to the payment of the cost of the improvement before using any part of the total of the same for
any other purpose.

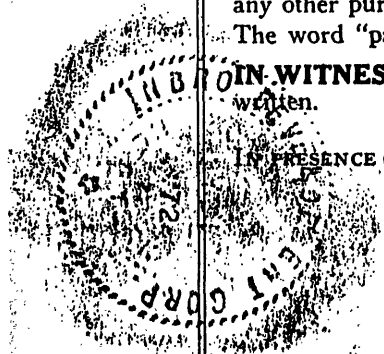
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above
written.

IN PRESENCE OF:

INBRO DEVELOPMENT CORP.

BY: 



STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me
personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ORANGE SS:

On the 8th day of April 1974, before me personally came JACK ROSEN to me known, who, being by me duly sworn, did depose and say that he resides at No. 2000 CLEVELAND AVE. FORT LEE, N.J. ; that he is the President of INBRO DEVELOPMENT CORP. of

in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

DAVID L. LEVINEON

Notary Public, State of New York

Residing in Rockland County.

My Commission Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF

33:

On the day of 19 , before me
personally came

to me known to be the individual: described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF _____ SS:

On the _____ day of _____, 19____, before me personally came _____ the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that _____ he resides at No. _____.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO.

INBRO DEVELOPMENT CORP.

TO

DAN MC CARVILLE and
MARY LOU MC CARVILLE

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

**CHICAGO TITLE
INSURANCE COMPANY**

SECTION

BLOCK

LOT

COUNTY OR TOWN

Recorded at Request of
CHICAGO TITLE INSURANCE COMPANY

Return by Mail to

JAMES M. FEENEY
135 So. MAIN ST.
NEW CITY, N.Y.

Zip No. **10956**

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

ORANGE
COUNTY

0 4 7 0 6 7

REAL ESTATE
TRANSFER TAX

Dept. of
Taxation APR 15 '74
& Finance



STATE OF
NEW YORK

12.10
Chad

HB 16951

LIBER 1975 PG 121

Orange County Clerk's Office, S.S.

Recorded on the 15th day

of 1974 at 2:45

P.M. in Liber 1975

at page 120.

and Examined.

Winters
Clerk

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-51

Date: 10/31/95

I. Applicant Information:

- (a) DANIEL C. McCLAVILLE X
(Name, address and phone of Applicant) (Owner)
(b) 442 Philo St NEW WINDSOR N.Y. 12553
(Name, address and phone of purchaser or lessee)
(c) _____
(Name, address and phone of attorney)
(d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- () Use Variance () Sign Variance
(☒) Area Variance () Interpretation

III. Property Information:

- (a) R-4 442 Philo St NEW WINDSOR 73-7-24 100X100
(Zone) (Address) (S B L) (Lot size)
(b) What other zones lie within 500 ft.? NONE
(c) Is a pending sale or lease subject to ZBA approval of this application? NO
(d) When was property purchased by present owner? 1974
(e) Has property been subdivided previously? NO
(f) Has property been subject of variance previously? NO
If so, when? _____
(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
(h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) 6 FT WOOD FENCE AND

WOOD SHED

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

TO PROTECT CHILDREN FROM POOL AREA

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No ✓.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. ✓ Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, ~~Table of~~ Regs., Col. _____.
Sec. 48-14A (1)(6) and Sec. 48-14C (1)(c) 17- Supp. Yard Regs.

Requirements	Proposed or Available		Variance Request	
Min. Lot Area				
Min. Lot Width				
Reqd. Front Yd.				
	<u>SHED</u>	<u>FENCE</u>	<u>SHED</u>	<u>FENCE</u>
Reqd. Side Yd.	<u>10</u>	<u>8 2</u>	<u>8</u>	
Reqd. Rear Yd.	<u>10</u>	<u>2</u>	<u>8</u>	
Reqd. Street Frontage*				
Max. Bldg. Hgt.				
Min. Floor Area*				
Dev. Coverage*				
Floor Area Ratio**				
Parking Area				

* Residential Districts only

** No-residential districts only

✓ (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

The proposed variance for the fence will not affect the character of the neighborhood. The 6 ft fence allows for best use of rear yard and the safety of children. The fence of shed are not out of character with other structures in the area.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: *N/A*

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) *N/A*. Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) *N/A*. What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. *N/A*

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

See V(h)

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$ 50.00 and the second check in the amount of \$ 300.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: Oct. 31, 1995.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Daniel C. McCarroll
(Applicant)

Sworn to before me this

31st day of October, 1995.
Patricia A. Barnhart

XI. ZBA Action:

(a) Public Hearing date:

PATRICIA A. BARNHART
Notary Public, State of New York
No. 018A4904434
Qualified in Orange County
Commission Expires August 31, 1997.

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC
HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF
APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

MARY LOU MCCARVILLE
DANIEL C. MCCARVILLE
442 PHILO ST.
NEW WINDSOR, NY 12553

50-235617
219

4120

Oct 31 19 95

PAY TO THE
ORDER OF

Town of New Windsor

\$ 300.00

Three Hundred Dollars and no cent

DOLLARS

THE
BANK OF
NEW
YORK

Route 17K Office, 900 Auto Park Place
Newburgh, NY 12550

MEMO

442 Philo 95-51 ZBA

Daniel C. McCarville

MP

⑆021902352⑆ ⑈0266413665⑈ 4120

SAFETY PAPER

MARY LOU MCCARVILLE
DANIEL C. MCCARVILLE
442 PHILO ST.
NEW WINDSOR, NY 12553

50-235617
219

4121

Oct 31 19 95

PAY TO THE
ORDER OF

Town of New Windsor

\$ 50.00

Fifty Dollars and no cent

DOLLARS

THE
BANK OF
NEW
YORK

Route 17K Office, 900 Auto Park Place
Newburgh, NY 12550

MEMO

ZBA AL 95-51

Daniel C. McCarville

MP

⑆021902352⑆ ⑈0266413665⑈ 4121

SAFETY PAPER